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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/657,653 | 09/08/2003 | David K. Haller | TEC1211-01 | 2842 |
| 832 | 7590 | 09/03/2004 | EXAMINER | |
| BAKER & DANIELS 111 E. WAYNE STREET SUITE 800 FORT WAYNE, IN 46802 | | | TRIEU, THERESA | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3748 | |

DATE MAILED: 09/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/657,653

Applicant(s)

HALLER, DAVID K.

Examiner

Theresa Trieu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 June 2004.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☒ Claim(s) 1-5 and 11-14 is/are allowed.
6) ☒ Claim(s) 6 and 8-10 is/are rejected.
7) ☒ Claim(s) 7 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on June 17, 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date July 26, 2004.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

This Office Action is responsive to the applicant's amendment filed on June 17, 2004

Claim 6 has been amended. Overall, claims 1-15 are pending in this application.

Applicant's cooperation in correcting the informalities in the drawing is appreciated.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 6, the term "*may*" renders the claim indefinite because the claim(s) include(s) elements not actually disclosed, thereby rendering the scope of the claim(s) unascertainable.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. ***Claims 6, 8-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Sekigami et al. (Sekigami) (Patent Number 5,345,785).***

Regarding claims 6, as shown in Fig. 1, Sekigami discloses a horizontal compressor assembly comprising a housing (1); a lower portion defining an oil sump (not numbered;

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however, clearly seen in Fig. 1)); a compressor mechanism and a motor (7, 23) disposed in the housing; a shaft (5) having a first end operably coupled to the compressor mechanism, a second end of the shaft extending outwardly from the motor (7, 23); a bearing support (12) secured within the housing (1), the bearing support including a radially inner shaft support member (not numbered; however, clearly seen in Fig. 1), a radially outer support member (not numbered; however, clearly seen in Fig. 1), and plurality of support arms (not numbered; however, clearly seen in Fig. 1) extending between the inner and outer support members, the radially outer surface and the housing defining a first gap (34) at a lowermost portion of the outer support member (12) such that oil flowing between the radially outer surface and the housing (1) through the first gap (34), the lowermost portion being positioned within the oil pump.

Regarding claims 8-11, Sekigami further discloses the bearing support (12), the motor (7, 23) and the shaft (5) are disposed in the low pressure chamber; the compressor mechanism comprising a fixed scroll member (2) engaged with the orbiting scroll member (3) and operable coupled to the first end of the shaft (5); the radially outer surface of the outer support member (12) and the housing (1) defining a second gap (17) disposed vertically above the oil sump.

Allowable Subject Matter

3. Claims 1-5 and 11-14 are allowed.
4. Claim 7 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Prior Art

The IDS (PTO-1449) filed on July 26, 2004 has been considered. An initialized copy is attached hereto.

Response to Arguments

Applicant's arguments with respect to claims 1-14 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Communication

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Theresa Trieu whose telephone number is 703-308-6434. The examiner can normally be reached on Monday-Friday 8:30am- 5:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas E Denion can be reached on 703-308-2623. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TT



Theresa Trieu
Patent Examiner
Art Unit 3748